

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael TESAR et al.
Title: ANTI-CD38 HUMAN ANTIBODIES AND
USES THEREFOR
Appl. No.: 10/588,568
International Filing Date: 2/7/2005
371(c) Date: 10/14/09
Examiner: Anne Gussow
Art Unit: 1643
Conf. No.: 8662

**PETITION FOR AN UNINTENTIONALLY DELAYED DOMESTIC PRIORITY
CLAIM UNDER 37 C.F.R. § 1.78(a)(3)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Pursuant to 37 C.F.R. § 1.78(a)(3), Applicant hereby petitions for acceptance of an unintentionally delayed domestic priority claim.

Benefit of priority sought

Applicant seeks benefit of priority under 35 U.S.C. § 119(e) to U.S. Provisional Application No. 60/614,471, filed October 1, 2004.

Priority is claimed and perfected in the parent PCT application

This application is the U.S. National Stage of PCT/IB2005/002476 which claims benefit of the filing date of U.S. Provisional Application No. 60/614,471.

PCT/IB2005/002476, which had erroneously omitted reference to U.S. Provisional Application No. 60/614,471, was corrected at the PCT to include under (30) “60/614,471, 01 October 2004, US,” in a Correction of Entry in Section I of the PCT Gazette published on

October 5, 2006 (see **Attachment A**). U.S. Provisional Application No. 60/614,471 was also reflected in the priority data on the front page of WO 2005/103083 A3 published on November 16, 2006, with the International Search Report (see **Attachment B**). A certified copy of U.S. Provisional Application No. 60/614,471, has been submitted to WIPO and is acknowledged as such in the “Related Documents on File” in the Documents tab of the WIPO website as of November 3, 2005 (see **Attachment C**). Accordingly, PCT/IB2005/002476 claims benefit of priority to U.S. Provisional Application No. 60/614,471.

The intent to claim priority is evident in the U.S. national stage, but was not perfected because of failure to submit an Application Data Sheet

Upon entry of the US National Stage of PCT/IB2005/002476, on August 4, 2006, in view of the above-identified corrections made in PCT/IB2005/002476, it was erroneously believed that no further action was necessary to perfect the priority claim in the present US National Stage Application.

Further, in the Declaration filed on October 14, 2009 (copy in the Image File Wrapper), U.S. Provisional Application No. 60/614,471 is listed among the applications for which benefit under 35 USC 119(e) is claimed. It is clear from the foregoing facts that Applicant intended to claim the benefit of priority to U.S. Provisional Application No. 60/614,471,

To date, however, the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2) has not been made in the present application, and the records of the USPTO do not reflect any claim to U.S. Provisional Application No. 60/614,471. Therefore, an Application Data Sheet is submitted herewith to meet the reference required by 37 U.S.C. § 120.

Delay was unintentional

This error was only recently discovered. The entire delay between the date that this claim was due under 37 C.F.R. § 1.78(a)(2) and the date this claim is being filed was unintentional.

Favorable action is solicited.

This petition is accompanied by a credit card payment form in the amount of \$1,410.00 for the requisite surcharge set forth in 37 C.F.R. 1.17(t). Should any further payments be required regarding this petition, the Commissioner is hereby authorized to charge them to Deposit Account No. 19-0741.

Respectfully submitted,

Date May 18, 2011

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4726
Facsimile: (202) 672-5399

By Simon J. Elliott

Simon J. Elliott
Attorney for Applicant
Registration No. 54,083



(10) International Publication Number
WO 2005/103083 A2

- [Continued on next page]

(57) Abstract: The present invention provides recombinant antigen-binding regions and antibodies and functional fragments containing such antigen-binding regions that are specific for CD38, which plays an integral role in various disorders or conditions. These antibodies, accordingly, can be used to treat, for example, hematological malignancies such as multiple myeloma. Antibodies of the invention also can be used in the diagnostics field, as well as for investigating the role of CD38 in the progression of disorders associated with malignancies. The invention also provides nucleic acid sequences encoding the foregoing antibodies, vectors containing the same, pharmaceutical compositions and kits with instructions for use. The invention also provides isolated novel epitopes of CD38 and methods of use therefor.

(201) TTAATTGGGT GGGTGGAGC CTTGGGAGG GCTGAGAGT GATGGGCTAT
(202) ATGATACGGA ATCTGCGAA TGGAGATAT GCGCGAGAT TTGAGGGGCG
(203) GTGGACGAT ACCGCGATA CCGAGATTA CAGCGGATAT ATGGAGCTTA
(204) GCGAGCGCG TAGCGAGAT AGCGGCTGT ATTATGGCG GATGGGATAT
(205) ATTTATTTA TTAATGGAT GTTTGATTT TGGGAGGAG GAGCGCTGTT
(206) GAGTTTGGG TCA



GM, KE, IS, MW, MZ, NA, SD, SL, SZ, TZ, UG, ZM, ZW), Eurasian (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, HU, IE, IS, IT, LT, LU, MC, NL, PL, PT, RO, SE, SI, SK, TR), OAPI (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).

Published:

- without international search report and to be republished upon receipt of that report

(48) Date of publication of this corrected version:

5 October 2006

(15) Information about Correction:

see PCT Gazette No. 40/2006 of 5 October 2006

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

(19) World Intellectual Property Organization
International Bureau



(43) International Publication Date
3 November 2005 (03.11.2005)

PCT

(10) International Publication Number
WO 2005/103083 A3

(51) International Patent Classification:
C07K 16/28 (2006.01) A61P 37/00 (2006.01)

(21) International Application Number:
PCT/IB2005/002476

(22) International Filing Date: 7 February 2005 (07.02.2005)

(25) Filing Language: English

(26) Publication Language: English

(30) Priority Data:
60/541,911 6 February 2004 (06.02.2004) US
60/547,584 26 February 2004 (26.02.2004) US
60/553,948 18 March 2004 (18.03.2004) US
60/599,014 6 August 2004 (06.08.2004) US
60/614,471 1 October 2004 (01.10.2004) US

(71) Applicant (for all designated States except US): MORPHOSYS AG [DE/DE]; Lena-Christ-Str. 48, 82152 Martinsried/Planegg (DE).

(72) Inventors; and

(75) Inventors/Applicants (for US only): TESAR, Michael [DE/DE]; Karolingerstrasse 26, 82362 Weilheim (DE). JAGER, Ute [DE/DE]; Sammtstrasse 5, 81669 Munchen (DE).

(74) Agent: JONES DAY; Prinzregentenstrasse 11, 80538 Munich (DE).

(81) Designated States (unless otherwise indicated, for every kind of national protection available): AE, AG, AL, AM,

AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SM, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW.

(84) Designated States (unless otherwise indicated, for every kind of regional protection available): ARIPO (BW, GH, GM, KE, LS, MW, MZ, NA, SD, SI, SZ, TZ, UG, ZM, ZW), Eurasian (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, HU, IE, IT, LT, LU, MC, NL, PL, PT, RO, SE, SI, SK, TR), OAPI (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).

Published:

- with international search report
- before the expiration of the time limit for amending the claims and to be republished in the event of receipt of amendments

(88) Date of publication of the International search report:
16 November 2006

(15) Information about Correction:

Previous Correction:
see PCT Gazette No. 40/2006 of 5 October 2006

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

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Search result: 1 of 1

(WO/2005/103083) ANTI-CD38 HUMAN ANTIBODIES AND USES THEREFOR

Biblio. Data Description Claims National Phase Notices Documents

International Application Status

Date	Title		
17.05.2011	International Application Status Report	view	download

Published International Application

Date ▼	Title		
16.11.2006	Later publication of international search report (A3 46/2006)	view	download
05.10.2006	Correction of entry in Section I of the PCT Gazette (A2 40/2006)	view	download
03.11.2005	Initial Publication without ISR (A2 44/2005)	view	download

Related Documents on file at the International Bureau ([more information](#))

Date ▼	Title		
19.10.2006	International Preliminary Report on Patentability Chapter I (IB/373)	view	download
13.10.2006	Written Opinion of the International Search Authority	view	download
03.11.2005	US 60/553,948 18.03.2004 (Pr. Doc.)	view	download
→ 03.11.2005	US 60/614,471 01.10.2004 (Pr. Doc.)	view	download
03.11.2005	US 60/547,584 26.02.2004 (Pr. Doc.)	view	download
03.11.2005	US 60/599,014 06.08.2004 (Pr. Doc.)	view	download
03.11.2005	US 60/541,911 06.02.2004 (Pr. Doc.)	view	download